

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**NATIONAL WILDLIFE FEDERATION,
AMERICAN RIVERS, PACIFIC COAST
FEDERATION OF FISHERMEN'S
ASSOCIATIONS, INSTITUTE FOR
FISHERIES RESOURCES, SIERRA
CLUB, IDAHO RIVERS UNITED,
NORTHWEST SPORTFISHING
INDUSTRY ASSOCIATION, NW
ENERGY COALITION, COLUMBIA
RIVERKEEPER, IDAHO
CONSERVATION LEAGUE, and FLY
FISHERS INTERNATIONAL, INC.,**

Plaintiffs,

and

**STATE OF OREGON, SPOKANE TRIBE
OF INDIANS, and COEUR D'ALENE
TRIBE,**

Intervenor-Plaintiffs,

v.

**NATIONAL MARINE FISHERIES
SERVICE, U.S. ARMY CORPS OF
ENGINEERS, U.S. BUREAU OF
RECLAMATION, and U.S. FISH AND
WILDLIFE SERVICE,**

Defendants,

Case No. 3:01-cv-640-SI

ORDER STAYING LITIGATION

and

**PUBLIC POWER COUNCIL,
COLUMBIA-SNAKE RIVER
IRRIGATORS ASSOCIATION,
NORTHWEST RIVER PARTNERS,
CONFEDERATED SALISH AND
KOOTENAI TRIBES, STATE OF
MONTANA, INLAND PORTS AND
NAVIGATION GROUP, STATE OF
IDAHO, and KOOTENAI TRIBE OF
IDAHO,**

Intervenor-Defendants.

Michael H. Simon, District Judge.

This lawsuit began in May 2001, more than twenty years ago. On January 20, 2021, Plaintiffs filed their Eighth Supplemental Complaint. Shortly thereafter, Intervenor-Plaintiff Spokane Tribe of Indians filed its Complaint-in-Intervention, followed by Intervenor-Plaintiff State of Oregon's Fifth Supplemental Complaint-in-Intervention, followed by Intervenor-Plaintiff Couer D'Alene Tribe's Complaint-in-Intervention. In July 2021, Plaintiffs and the State of Oregon filed motions for preliminary injunction. Pursuant to the parties' stipulation, briefing on these motions will not be complete for several more months.

On October 21, 2021, the parties filed their Joint Motion to Stay Litigation until July 31, 2022. This would include staying the two pending motions for preliminary injunction and all anticipated motions for summary judgment. The parties explain that they currently are in good faith discussions to resolve the entire litigation and that they have reached an agreement regarding short-term operations of the Federal Columbia River Power System, including spill operations, which is the subject of the pending motions for preliminary injunction. Only *amicus curiae* James M. Waddell opposes the parties' Joint Motion to Stay Litigation. Mr. Waddell

argues the Court, under either its “inherent authority” or the authority provided by the Endangered Species Act, should “order breach of the lower Snake River dams starting this year.” ECF 2413. No party in this lawsuit, however, has moved for such an order, nor have the parties presented legal argument on whether the Court legally can enter any such order. Thus, it is premature to consider this issue.

For the reasons stated by the parties, the Court GRANTS the parties’ Joint Motion to Stay Litigation (ECF 2411). The Court DENIES WITHOUT PREJUDICE AND WITH LEAVE TO RENEW Plaintiffs’ Corrected Motion for Preliminary Injunction (2390) and the State of Oregon’s Corrected Motion for Preliminary Injunction (2392). The Court DENIES AS MOOT AND SUPERSEDED Plaintiffs’ Motion for Preliminary Injunction (2373) and the State of Oregon’s Motion for Preliminary Injunction (2382). The Court STAYS this litigation until July 31, 2022. Not later than July 31, 2022, the parties shall jointly file a status report.

IT IS SO ORDERED.

DATED this 26th day of October, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge